

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

HAKIM NASEER,

Plaintiff,

v.

CAPTAIN RADTKE, C/O . NEUMAIER, C/O ISAACSON,
C/O SWENSON, C/O PULVER, C/O TRIMBLE,
C/O KROCKER, DR. TOBIASZ, SGT. ROBERT MORRIN,
SGT. JAMES KOTTKA, C/O RYAN ARMSON,
BRIAN CAHAK, WILLIAM CONROY,
JONATHAN PARKER, LOGAN WALTER,
LT. THOMAS SCHOENBERG and CAPT. SEAN SALTER,

Defendants.

ORDER

09-cv-569-bbc

Plaintiff Hakim Naseer is proceeding on his claim that defendants violated his Eighth Amendment rights by leaving him in severe cold in his cell on March 6, 2009 and refusing to provide him clothing or bedding during that time. Defendants moved to compel plaintiff to sign an authorization for release of medical information. Plaintiff now has responded to the motion.

In their motion to compel, defendants contend that they are entitled to obtain his medical records because he has put his health at issue because he alleges that he suffered physical injury as a result of defendants' alleged conduct and because the alleged conduct occurred after he received medical treatment for an open cut. Although plaintiff's response is not clear, it seems he is saying that defendants are only entitled to the medical records material to the events at issue in this case. Both sides make valid points.

Defendant's authorization form is overbroad for the issues disputed in this case and would require disclosure of medical information not relevant to petitioner's claims. Therefore, I will deny defendants' motion to compel plaintiff to sign this version of the release form.

Defendants may draft a more narrow release of information for plaintiff to sign, or they may attempt to obtain plaintiff's agreement as to which medical records are relevant and disclosable. In any event, the court will not force plaintiff to sign any medical release; but if plaintiff is unwilling to consent to the use of his relevant medical records, then his decision likely will result in dismissal of his claims relating to physical injury.

ORDER

IT IS ORDERED that defendants' motion to compel plaintiff to sign authorization for release of medical information form, dkt. 25, is DENIED.

Entered this 16th day of May, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge